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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GARY CAMMENGA,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner,  
Social Security Administration,

Defendant - Appellee.

No. 07-17075

D.C. No. CV-06-00829-MHM

MEMORANDUM \*

Appeal from the United States District Court  
for the District of Arizona  
Mary H. Murguia, District Judge, Presiding

Submitted February 18, 2009 \*\*

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Gary Cammenga appeals pro se from the district court's judgment affirming the Commissioner's final decision denying Cammenga's application for disability

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

insurance benefits and Social Security Income under Titles II or XVI of the Social Security Act, 42 U.S.C. §§ 401-34, 1381-1383f. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's order upholding the Commissioner's denial of benefits. *Gillett-Netting v. Barnhart*, 371 F.3d 593, 595 (9th Cir. 2004). The Commissioner's decision must be affirmed if it is based on the correct legal standards and is supported by substantial evidence. *Batson v. Comm'r of Soc. Sec. Admin.*, 359 F.3d 1190, 1193 (9th Cir. 2004). We affirm.

The Administrative Law Judge ("ALJ") properly refused to accept fully Cammenga's subjective complaints of fatigue. The ALJ's adverse credibility finding was based on specific, clear, and convincing reasons, supported by substantial evidence, including evidence of Cammenga's daily activities and travel. *See Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 (9th Cir. 2007) (ALJ can reject claimant's testimony about severity of his symptoms by offering specific, clear, and convincing reasons for doing so).

The ALJ also properly rejected the treating physician's report that Cammenga suffers from moderately severe fatigue because that opinion was premised on Cammenga's subjective complaints, which the ALJ had already properly discounted. *See Fair v. Bowen*, 885 F.2d 597, 605 (9th Cir. 1989).

**AFFIRMED.**